

APPEAL NO. 031309
FILED JUNE 30, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 16, 2003. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury on _____, and had no disability. The claimant appealed, arguing that the determinations are against the great weight and preponderance of the evidence. The respondent (self-insured) responded, urging affirmance.

DECISION

Affirmed.

The claimant testified that he worked in the water department for the city and that his job duties included periodically making rounds to the water pump stations throughout the city. The claimant testified that on _____, he left his place of employment to make rounds and traveled to a fast food restaurant to purchase a soft drink and was involved in a motor vehicle accident while pulling out of the parking lot. The claimant testified that the restaurant was two blocks off the route he would have driven to make his rounds. The hearing officer found that the claimant deviated from his employment duties while driving the employer's truck to pursue a personal errand and was involved in a motor vehicle accident. Additionally, the hearing officer found that the claimant did not injure his lumbar, thoracic, or cervical spine or any other body part in the motor vehicle accident of _____.

The 1989 Act defines compensable injury and course and scope of employment. Compensable injury is defined as an injury that arises out of and in the course and scope of employment. Section 401.011(10). Section 401.011(12) defines course and scope of employment as an activity of any kind and character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. A deviation occurs when an employee abandons and turns aside from the course and scope of his employment and is engaged in and pursuing personal work or objectives that do not further the employer's interest, at the time of the injury. See Lesco Transportation Company, Inc. v. Campbell, 500 S.W.2d 238 (Tex. Civ. App.-Texarkana 1973, no writ). An injury is not compensable if sustained during a deviation from the course and scope of employment, but an injury sustained after the deviation has ended is compensable. General Ins. Corp. v. Wickersham, 235 S.W.2d 215 (Tex. Civ. App.-Fort Worth 1950, writ ref'd n.r.e.). The claimant had the burden to prove that he sustained an injury in the course and scope of his employment and that he had disability. These issues presented factual questions for the hearing officer to determine from the evidence presented. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established

from the evidence presented. Nothing in our review of the record indicates that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity through the Texas Municipal League Intergovernmental Risk Pool)** and the name and address of its registered agent for service of process is

**DP
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Margaret L. Turner
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Veronica Lopez-Ruberto
Appeals Judge